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FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

JUL 31 1998

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)	
)	
Annual Assessment of the Status of)	CS Docket No. 98-102
Competition in the Markets for the)	
Delivery of Video Programming)	

COMMENTS OF COX COMMUNICATIONS, INC.

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SUMMARY

This year, there can be no doubt that Cox is facing widespread competition for its video program offerings throughout its cable systems. DBS is continuing to enjoy phenomenal growth and consumer acceptance. Telephone companies have entered the video business in Cox's markets in earnest using both wireline and wireless technologies. And wireless cable operators are forming alliances with DirecTV and others to strengthen their competitive position in the marketplace.

All of this activity boils down to a basic fact: competition, not regulation, drives Cox. It is competition, not regulation, that has kept Cox's regulated cable rates well within the maximum levels permitted by law. It is competition, not regulation, that has spurred Cox to invest \$3.3 billion in the past five years to upgrade its cable infrastructure so that it can provide a host of video, voice and data services over an advanced broadband platform. It is competition, not regulation, that has motivated Cox to provide some of the best customer care in the cable industry. And, it is competition, not regulation, that has led Cox to continually improve the quality of its service offerings by adding the new programming services that its customers demand.

The ultimate beneficiaries of Cox's pro-competitive actions are, of course, consumers. Consumers in Cox's markets have multiple options across service categories. Those who do not place a high value on television programming can either forego cable entirely, subscribe to Cox's basic service tier and receive roughly 20 channels of programming for around \$11.00, or purchase a similar level of service from a telephone company or wireless cable competitor. Those consumers who view television as a great source of entertainment and information can purchase expanded basic or premium

services from Cox, or take advantage of the many similar services offered by DBS, telephone companies, SMATV and MMDS operators. Moreover, consumers who are interested in highly competitive telephone and high-speed data services increasingly have a new option, as Cox continues its aggressive roll-out of these services throughout its nine regional clusters. These launches in turn are generating even more competition in video, voice and data as telephone companies and others respond to Cox's entry by accelerating their own efforts to offer one-stop shopping.

Cox firmly believes that the appropriate regulatory response to all of the competitive activity in its markets is to resist calls for further regulation of the cable industry. Cox's rates for regulated services and equipment are reasonable. Since being set at competitive levels in 1993 and 1994, Cox's rates have risen only to reflect either the addition of new programming channels (as demanded by consumers), or increases in inflation, programming costs and franchise fees – the exogenous costs that the Commission has identified as being largely beyond cable operators' control. With rare exception, Cox's cable systems have not sought permission to include any portion of their considerable upgrade costs in regulated rates. Regulatory efforts to restrict Cox's rates even further would ignore the competitive forces at play, would seriously hamper Cox's ability to compete effectively, and would deny Cox's customers wider choice and better value for the services that they elect to take from Cox.

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Cox Communications, Inc. ("Cox"), by its attorney, hereby submits its comments on the Commission's Notice of Inquiry in the above-referenced proceeding (FCC 98-137, released June 26, 1998)("Notice").

I. INTRODUCTION

Cox currently is the country's sixth largest cable MSO, serving roughly 3.4 million subscribers nationwide. Its nine highly-clustered cable systems operate in some of the country's fastest growing urban areas, including Orange County and San Diego, California; Phoenix, Arizona; Hampton Roads, Virginia; and, in the near future, Las Vegas, Nevada.¹

Far from being removed from competitive pressures, Cox's systems face some of the most formidable competition in the cable industry. These competitive forces have long motivated much of the pro-consumer behavior that distinguishes Cox as an industry leader. Cox's traditional commitment to customer care, for example, has earned it the highest customer satisfaction rating among cable operators in recent J.D. Power and

¹ Cox recently purchased the Tucson, Arizona cable system, and has entered into an agreement to acquire the Las Vegas, Nevada cable system. Cox's other regional clusters are located in New Orleans, Louisiana; Oklahoma City, Oklahoma; Omaha, Nebraska; the Florida panhandle; and New England (Connecticut,

Associates' surveys.² Cox also operates some of the most advanced cable systems in the country.³ Indeed, for the past five years, it has been engaged in the arduous and expensive task of upgrading its cable plant in order to provide a variety of video, voice and data services over an advanced, two-way network. This effort has been motivated both by Cox's desire to respond to the increasing competition it faces in its core video business, and by its intent to exploit the full potential of its broadband platform by expanding into new, non-video enterprises such as high-speed data and local telephone services.

Significantly, Cox has not financed its entry into advanced services by increasing its regulated cable rates. Cox will have spent roughly \$3.3 billion by the end of 1998 upgrading its cable plant and diversifying into new lines of business. Yet, with rare exception, its cable systems have chosen not to pass through in the form of regulated rate increases any portion of this substantial capital investment. Rather, Cox's capital expenditures have been financed by borrowing money in the capital markets and by developing other, non-regulated revenue streams.

Cox's restraint with respect to raising regulated cable rates is illustrated by another key fact. As of March of this year, nearly all of Cox's systems reported that they were charging rates below the maximum levels permitted by the Commission's rules. This behavior is a direct result of the competitive environment in which Cox's large urban systems operate. Far from being "captive" cable consumers, Cox's customers have

Massachusetts and Rhode Island). Together, these clustered systems serve roughly 85% of Cox's total customers.

² The first J.D. Powers survey measured customer satisfaction in the cable industry. The second survey examined customer satisfaction in both the cable and DBS industries.

other video programming choices, and they are very sensitive both to rate increases that do not reflect greater value and to customer care that is inattentive to their needs.

In an effort to assist the Commission in its inquiry, these comments describe the significant video competition that Cox faces in several of its large regional clusters. The comments also discuss the effects that this increased competition, coupled with FCC rate regulations, has had on Cox's rate behavior over the past few years. In addition, the comments provide a status update on Cox's roll-out of advanced digital services, including digital television, high-speed data and local telephone services. And, finally, the comments provide several recommendations concerning the Commission's ongoing efforts to help promote competition in the multichannel video programming marketplace.

II. COX'S CABLE SYSTEMS FACE SIGNIFICANT COMPETITION

A. The Commission's Competitive Analysis Must Be Refined to Examine Competition for the Separate Programming Services Offered by Cox

Perhaps because its systems are located in attractive, high-growth markets, Cox for some time has faced substantial competitive pressures from a variety of multichannel video programming distributors. In analyzing these pressures, it is important to keep in mind that Cox offers its customers a number of different video services which are subject to different regulatory treatment.

First, all Cox systems offer a mandatory broadcast basic tier, which typically includes all over-the-air broadcast stations, PEG channels, C-SPAN and an on-screen guide. The average price for Cox's basic tier is approximately \$11.00 and includes

³ Cox's ring-in-ring hybrid fiber coaxial networks exceed Bellcore reliability standards for providing both regular customer and emergency 911 services.

roughly 20 channels. Approximately 5% of Cox's total customers purchase only the basic tier. Cox's internal market research reveals that, in contrast to heavier cable users, basic-only customers place less value on television as an entertainment source and subscribe to cable television principally to improve reception of over-the-air broadcast signals.⁴ Cox's basic service tier meets these customers' needs for an extremely attractive price. Rates for the basic service tier are subject to regulation by Cox's local franchising authorities. Significantly, local regulation of basic service tier rates is not scheduled to sunset under the Telecommunications Act of 1996, and thus will continue until Cox's cable systems are subject to effective competition, as defined by statute.⁵

Cox's next level of video service is its "expanded basic" offering. This service is purchased by 95% of Cox's customers and, on average, includes 36 channels for around \$16.00. A number of Cox systems also offer a new product tier ("NPT"), which consists of 3-6 channels of programming and is priced between \$3.00 and \$6.00. The rates for Cox's expanded basic offering and its new product tiers currently are subject to regulation by the FCC. This regulation, however, is scheduled to sunset on March 31, 1999 pursuant to Section 623(c)(4) of the Communications Act.

In addition to regulated programming services, Cox offers its customers a variety of unregulated analog and digital premium and pay-per-view services. In an analog environment, Cox cable systems typically provide 4 premium services, 5 channels of pay-per-view, and Music Choice, which generally consists of 31 channels of commercial-free music and is sold on an a la carte basis. In Cox systems offering digital service, these

⁴ By contrast, expanded basic customers are much more likely to state that their main reason for subscribing to cable is to receive increased programming options.

options increase to 5 premium services which are highly multiplexed (for example, digital customers receive up to 8 HBO channels versus the typical 2 HBO analog channels), 43 channels of pay-per-view, and 40 channels of Music Choice. In addition, customers selecting the digital level of service have the option of three separate digital tiers which average 8 channels per tier. And, finally, all digital subscribers receive an electronic on-screen guide.

In past years, both the FCC's Annual Report on Video Competition and its Annual Report on Cable Industry Prices have analyzed cable operators' regulated offerings together by examining "average monthly rates" – a construct which represents the amount charged a typical cable subscriber for equipment, basic service and cable programming service (other than NPTs) combined.⁶ Although the data generated by this approach are useful for some purposes, Cox believes that the methodology is not sufficiently refined to give the Commission an accurate picture of the competitive environment in which it operates.

As discussed below, Cox faces intense competition for its expanded basic and premium programming services from DBS, SMATV, MMDS and telephone companies. Although some of these video providers also offer a programming service that virtually mirrors Cox's basic cable service, others, such as DBS, do not. However, DBS services offer virtually all of the programming choices available on Cox's expanded basic and premium services – services which are purchased by the vast majority of its customers.

⁵ See Section 623(l)(1) of the Communications Act of 1934, as amended.

⁶ See In the Matter of Implementation of Section 3 of the Cable Television Consumer Protection and Competition Act of 1992, Statistical Report on Average Rates for Basic Service, Cable Programming Services and Equipment, Report on Cable Industry Prices, FCC 97-409 (released December 15, 1997), at para. 17.

Additionally, DBS providers offer many exclusive sports packages that are not available to cable operators. Moreover, the many former Cox customers who discontinue their cable service after signing up for satellite service apparently consider DBS a viable alternative to the full range of Cox's service offerings.⁷ Finally, it is important to note that none of these competitors have the numerous local regulatory obligations such as mandatory government and educational access channels or franchise fees imposed on them as cable operators do.

Examining only aggregated data for all regulated services blurs the competitive analysis and leads to results which seriously underestimate the competitive impact that alternative services are having in the marketplace for multichannel video programming. As shown below, consumers in all of Cox's systems have a variety of options for the levels of cable service (expanded basic and premium) for which there will be no regulatory oversight after March 31, 1999. There is thus no need either to second-guess the wisdom of that sunset date or to entertain proposals to modify the FCC's CPS rate regulations in the interim. Moreover, regulatory oversight of basic cable services will continue after the CPS sunset date, thereby enabling the Commission to monitor further competitive developments with respect to this mandatory level of cable service. Cox urges the Commission, in this year's Report to Congress, to refine its competitive analysis to recognize these important distinctions among the various services provided by cable operators.

⁷ Presumably, these customers either receive satisfactory reception of over-the-air broadcast signals, do not highly value local broadcast stations, or are primarily interested in receiving the large number of programming options offered by DBS.

**B. Cox Faces Significant and Growing
Competition For Its Video Services**

Cox's cable systems face competition for their video program services from a wide variety of sources. All of Cox's customers have a choice of three DBS providers (DirecTV, EchoStar and PrimeStar). There is digital MMDS competition from BellSouth in New Orleans and Pacific Bell in Orange County. Cox also faces analog MMDS competition from People's Choice in Phoenix and Tucson; Heartland Wireless in Lubbock, Texas and Oklahoma City, Oklahoma; CAI Wireless in Bakersfield, California; and Wireless One in Gainesville, Florida. Time Warner has long operated a cable system in direct competition with Cox's system in Bakersfield. And, telephone companies have overbuilt Cox systems in Cleveland (Ameritech), Connecticut (Southern New England Telephone), Omaha (US West), and Phoenix (US West). These service alternatives demonstrate that, far from being sheltered from competitive forces, Cox's systems have been competing against well-heeled companies in the marketplace for some time.

1. Telephone Company Competition

A number of Cox's systems face considerable and growing competition from telephone companies expanding into the video marketplace. The services provided by these competitors mirror the full range of video offerings provided by Cox – i.e., they include local broadcast signals, expanded basic tiers and a variety of premium and pay-per-view services. A brief review of the competing video services offered in four of Cox's systems reveals the intensity with which telephone companies are entering the cable business in Cox's markets.

(1) In Omaha, Nebraska, US West has been providing a multichannel video programming service called "TeleChoice" in direct competition with Cox since 1995.⁸ TeleChoice customers receive 57 channels (including a basic service tier) for \$21.95 a month, plus free installation and one month's free service. Ten premium channels and 10 pay-per-view channels also are available. Moreover, since TeleChoice is an analog interdicted product, customers do not need to lease a set-top box to receive scrambled services. TeleChoice customers who also subscribe to US West's local telephone services can take advantage of package discounting: they receive \$1.00 off if their combined cable and telephone bill is \$69.99 or less; \$3.00 off if their combined bill is \$70.00 - \$99.99; and \$5.00 off if their combined bill is \$100.00 or greater.

Cox's comparable cable package in Omaha consists of 64 channels of programming for \$26.95. Cox's lineup is offered over its 750 MHz upgraded cable infrastructure, over which it also is providing high-speed data and digital telephone services in direct competition with US West.

(2) US West recently announced plans to compete head-to-head with Cox across a range of product offerings in Phoenix, Arizona, one of Cox's largest clusters. US West plans to provide digital video, voice and data services over an integrated network using VDSL (Very high speed Digital Subscriber Line) technology. US West has indicated that it will include a 120-channel digital cable service as part of its package. It has further suggested that the new services could be available to anywhere from 400,000 to 700,000 homes in the Phoenix area by the end of this year.

⁸ US West began operation as a video dialtone system and later secured a cable franchise from the City of Omaha.

The serious nature of US West's plans is highlighted by its concurrent announcement that it has entered into a twenty-year exclusive arrangement with the Phoenix Suns for the cable rights to their NBA games. US West has further stated that it has no intention of making the Suns games available to Cox customers. Although additional details of US West's video offerings have yet to be released, those offerings clearly will increase the competitive pressures already experienced by Cox in its Phoenix system.⁹ Indeed, Cox's Phoenix system has accelerated the launch of its own digital television product – Cox Digital TV – as well as the roll-out of its high-speed Internet access and digital telephone services.

(3) In New Orleans, BellSouth has launched a digital MMDS service in direct competition with Cox's cable offerings. BellSouth's "Americast" service provides 160 all-digital channels, including local broadcast stations. BellSouth's roll-out of this service has been accompanied by an aggressive and multifaceted mass media marketing campaign focused on Cox's franchise areas. Cox offers a 60-channel analog expanded basic service for \$28.29 that competes with BellSouth's standard 56-channel service package at \$32.99. For an additional \$6.95, Cox customers can upgrade to Cox Digital TV, which provides a level of digital service that is very competitive with the digital service offered by BellSouth.

(4) As part of its broad entry into the cable business, Ameritech has built a competing cable system in the Fairview Park franchise of Cox's Cleveland system. Cox's expanded basic offering includes 67 program channels and is priced at \$27.60.

⁹ US West already is providing a package of video, voice and data services on a bulk discount basis to a planned community in Scottsdale, Arizona, and it is targeting other planned communities and MDUs in the

Ameritech's video offering, "Premiercast," includes 64 basic and expanded basic program services for \$26.95, plus 9 premium services and 27 channels of pay-per-view. In addition, Ameritech has utilized a variety of competitive offerings such as an aggressive coupon package that provides discounts on its own telephone service and a long distance package with Qwest that provides discounts on 300 minutes of service. Both of these promotional packages have since been discontinued due to adverse regulatory rulings. Ameritech currently is offering \$120 in free groceries from a local grocer, payable in three parts: \$30 in the first 6 weeks of cable service, \$30 after 3 months of service, and \$60 after 6 months of service.

2. DBS Competition

Another source of significant competition to Cox's video services is DBS. As other comments in this proceeding undoubtedly will document, DBS providers such as DirecTV and EchoStar are enjoying unprecedented growth. This growth is being fueled by aggressive discounting of equipment, installation and programming prices, and by advertising campaigns targeted directly at cable's expanded basic and premium customers. Cox's market research reveals that roughly 85% of consumers are aware of the availability of DirecTV -- a terrific accomplishment for any service offering, let alone one as young as DirecTV. This awareness is translating directly into customers. Last year, DBS subscribership grew 40% while Cox's subscribership grew 2.7%, and DBS growth this year is running nearly 35% ahead of 1997.

A comparison of DBS offerings with Cox's expanded basic and premium offerings reveals many similarities. Both services provide consumers with a wide range

of programming choices that are bundled into service packages. Pricing for these program packages is quite comparable. Although each service has its own identifying characteristics, Cox has found that the vast majority of its cable customers do not keep their cable service when switching to DBS – further proof that the two product offerings are perceived by consumers as being substitutes, not complements, to each other. Indeed, the Department of Justice itself has concluded that DBS and cable compete directly with each other in the same market for antitrust purposes.¹⁰

In an analogous situation involving the provision of local exchange service by competitors to the Bell Operating Companies (BOCs), Chairman Kennard recently expressed his view that, “even if a competing provider has relatively few customers, as long as the competing service is a substitute for the traditional wireline service offered by the Bell Operating Company, the Bell Operating Company is more likely to compete to retain its customers with some combination of lower prices and/or better quality service.”¹¹ In Cox’s case, the introduction and success of telephone company and DBS video services have helped accelerate Cox’s pro-competitive undertakings. Cox continues to invest heavily in customer care, spending \$158 million annually to provide top-quality customer service. It has redoubled its efforts to improve its cable networks and will have 70% of its plant, comprising over 34,500 miles of infrastructure, upgraded by the end of this year. It has added new programming services as soon as system

¹⁰ See United States v. Primestar, Inc., No. 1: 98 CV01193 (D.D.C. May 12, 1998), Compl. Para. 63 (while DBS and cable “are delivered via different technologies, consumers view the services as similar and to a large degree substitutable”). It should be noted that the defendants in the Primestar litigation, including Cox, believe that the Department has defined the relevant market much too narrowly.

¹¹ See Letter from Chairman William E. Kennard to The Honorable W.J. (Billy) Tauzin, Chairman, Subcommittee on Telecommunications, Trade and Consumer Protection, Committee on Commerce, U.S. House of Representatives, dated July 7, 1998, at 2.

capacity has become available, increasing its analog channel capacity 95% between 1992 and 1998. It has committed to roll-out new digital television services as quickly as possible, an effort which will increase its weighted average number of channels per system from 56 to more than 200. And, not insignificantly, it has kept virtually all of its regulated cable rates below the maximum levels permitted by law.

These facts establish a simple truth: that the presence of telephone companies, DBS and other service providers in the marketplace has unleashed the substantial competitive forces vis-a-vis cable's service offerings that regulators have long sought to facilitate.

III. COX'S REGULATED RATES ARE REASONABLE

It is not surprising that, given the competitive environment in which Cox's cable systems operate, Cox's rate behavior since the implementation of the Commission's rate rules has been extremely reasonable. Having set its regulated service and equipment rates in 1993 and 1994 at the competitive levels established by FCC rules, Cox has since increased those rates only to add new programming channels and to reflect increases in inflation, programming costs, and franchise fees – the exogenous costs identified in the Commission's rules as being largely beyond cable operators' control. In addition, many of Cox's systems have chosen not to pass through in regulated rates the full amount of the exogenous costs they have incurred. As of March of 1998, nearly all of Cox's cable systems reported that they were charging rates for regulated products that were below the maximum levels permitted by the FCC's rules.

Significantly, most of Cox's rate changes have been driven by increases in the program license fees that Cox pays to carry cable programming networks and, in response

to consumer demand, by the addition of new program services to regulated program tiers. Data from a representative sample of Cox's systems reveal that in 1996 and 1997, fully 80% and 59%, respectively, of Cox's regulated rate increases were attributable to programming cost increases and channel additions. Cox also has invested heavily in recent years to provide sports and children's programming – two of the program categories most sought after by multichannel video customers. In 1997, for example, Cox estimates that 27% of its total programming costs were attributable to sports programming and 26% of those costs were attributable to children's programming.

Notably, Cox's regulated rate increases do not reflect upgrade costs of any kind. Cox estimates that its aggregate capital spending for improving its infrastructure since the inception of rate regulation has been \$3.3 billion. With rare exception, however, Cox's cable systems have not sought permission to include any portion of these upgrade costs in regulated rates. Rather, Cox's considerable capital expenditures have been financed by borrowing money in the capital markets and by developing other, non-regulated revenue streams such as digital television, high-speed data and digital telephony services.

In addition, a concept that is usually lost in the debate over cable rate increases since the passage of the 1992 Cable Act is the relative stability in a typical Cox customer's total bill. With rate regulation, not only have the rates for regulated programming services been set at competitive levels by FCC formula, but equipment rental rates for converters, additional outlets and remote controls also have been dramatically reduced. This regulatory regime, coupled with the significant competitive pressures exerted on Cox systems, has created a predictable environment for consumers purchasing Cox's regulated cable services and equipment. In Cox's large San Diego

system, for example, a typical customer bill in 1990 was \$30.49 for 30 channels of programming, an additional outlet, an addressable converter and a remote. Today, that typical customer bill is \$34.49 for 68 channels of programming and the same equipment. This represents a total price change of 1.6% per year, a 227% increase in the number of channels, and a price per channel decrease of 50% (or 6.4% per year).

Cox fully appreciates the Commission's concern that it fulfill its statutory mandate to ensure that cable programming service rates are not unreasonable. Cox urges the Commission, however, to avoid simplistic analyses which, for example, merely compare cable rate increases against inflation. The fact is that roughly 95% of Cox's cable customers purchase more than the basic level of service. It is these customers who see television as a great source of entertainment. It is these customers who have ready service alternatives from DBS, wireless cable companies and, increasingly, telephone company providers. And, it is these customers who have made it clear that they want more and better channels of programming from their cable operator. Cox's rate increases since the inception of rate regulation have been primarily driven by its pro-competitive efforts to respond to these customers' demands, while at the same time offering an affordably priced basic service tier for consumers who place less value on multichannel video programming.

IV. COX IS ROLLING OUT A VARIETY OF NEW SERVICES OVER ITS ADVANCED BROADBAND NETWORKS

As the Notice aptly recognizes, changes in technology have made it possible for the operator of a single, integrated broadband network to provide a multiplicity of

services over that network.¹² For the past five years, Cox has been actively pursuing this very vision by, among other things: upgrading its plant to expand capacity; installing digital equipment; hardening its networks; activating return paths; buying telephone switches, network interface units and cable modems; installing back-up power generators; developing an integrated billing system; and, shoring up its high-quality customer care program. As a brief review of Cox's new service deployments reveals, these enormous and complicated efforts already are beginning to bear fruit.

Cox currently is providing local digital telephone services to single family homes and multiple dwelling units ("MDUs") in Orange County, San Diego, Omaha, and New England. Similar telephone services are being provided to MDUs in Phoenix and Hampton Roads, Virginia. Cox telephony and data services for large and small businesses are now available in Hampton Roads, Roanoke, Phoenix, San Diego, Oklahoma City, New Orleans, Pensacola and Santa Barbara. Cox has rolled out high-speed data services in partnership with @Home to residential subscribers in Orange County, San Diego, Phoenix, Omaha, New England, Hampton Roads and Oklahoma City. And, Cox has launched digital television services in Orange County, New England, Omaha, Hampton Roads and New Orleans.

By the end of this year, the majority of Cox's nine clustered systems will offer digital telephony, data and television services. At that time, approximately 1,500,000 homes are projected to be telephony-ready and approximately 2,700,000 homes are projected to be data-ready and able to purchase digital television. By the end of 1999,

¹² Notice at para. 7(f).

Cox's roll-out of these new services will be virtually complete, with almost all of its 3.4 million customers having access to the full array of Cox broadband services.

All of Cox's new service offerings are highly competitive in their respective markets. In Orange County, for example, a Cox residential telephony customer with two lines, call waiting and voice mail pays \$23.18 per month – a 29% savings over Pacific Bell's charge of \$32.95 for the same services.¹³ Similarly, Cox's digital high-speed data service is faster and less expensive than the digital subscriber line (DSL) data services provided by incumbent telephone companies. In Phoenix, for example, Cox's @Home service – priced as low as \$29.95 a month -- can download a 19 megabyte file in as little as 21 seconds, while US West's MegaPak data service, priced at \$59.95 a month, takes 2 minutes and 40 seconds to download the same amount of information.

On the video front, Cox has priced its new digital television service to compare very favorably with the digital products offered by competitors such as DBS and the telephone companies. For as little as \$5.95 a month, Cox's digital customers can choose from among a number of program packages which include up to 90 additional video channels, 40 CD-quality music channels, a sophisticated interactive on-screen guide, and a program blocking device for children. Movie fans also have access to as many as 50 different, commercial-free movies during prime time, with a one-touch record feature that eliminates the need to program a VCR.

Not surprisingly, Cox's customers are very enthusiastic about its new service offerings. This enthusiasm, moreover, will only increase as Cox's launch of new products spurs its competitors to innovate with their own service offerings and

experiment with more pro-competitive pricing. Indeed, it is no accident that telephone companies in Cox's clustered systems have moved aggressively to enter the video and high-speed data markets. Cox's entry into their core business – local telephony – has forced them not only to defend that business but also to expand into new services provided over their own integrated plant.

V. REGULATORY INITIATIVES SHOULD ENCOURAGE, NOT IMPEDE, COMPETITION AND BROADBAND DEPLOYMENT

As these comments make clear, regulators' hopes that well-heeled, experienced companies will engage in full-scale competition across service offerings are being realized in Cox's markets. Cox therefore urges the Commission and the Congress to exercise great caution when evaluating whether additional regulation is needed to further nurture competition in the multichannel video programming marketplace.

In particular, Cox believes that competitive forces, coupled with the Commission's existing rate rules as applied by Cox, have ensured that its rates for regulated equipment and service offerings have remained reasonable since they were set at competitive levels in 1993 and 1994. As described above, Cox's regulated rate increases in the last few years have been driven primarily by programming costs resulting from either increased program license fees or the addition of new program services as demanded by its customers. Changing existing FCC regulations to make it harder for Cox to improve either the quality or the quantity of programming it offers would greatly impede its ability to compete by making it difficult to meet its customers' demands for more and better programming. Consumers served by Cox's cable systems who do not

¹³ Cox's local zone and local toll calls also are priced substantially below Pacific Bell.

place a high value on multichannel video programming already have a terrific option: they can purchase Cox's basic service tier and receive roughly 20 channels for about \$11.00 a month. The 95% of Cox's customers who want more programming have a number of choices in Cox's service areas: they can select from among Cox, three DBS providers, wireless cable operators or, increasingly, telephone company video subsidiaries. It would truly be perverse for the Commission to impose regulations, in this competitive environment, which seriously handicap one player and make it difficult for only that player to serve the needs of its customers.

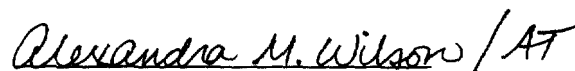
Cox also urges the Commission to reject proposals that would require cable operators to raise advertising rates in lieu of passing along higher program license fees to their customers. When selling advertising time on its systems, Cox vigorously competes with radio and television stations, newspapers and direct mail companies, among others. It simply has no ability to increase advertising rates above market levels and retain customers. In addition, to the extent that Cox's advertising sales efforts generate positive cash flow, that revenue (which represents only a tiny fraction of Cox's total revenue) is used by Cox systems to help finance system upgrades and support other business activities. This investment, in turn, exerts a downward pressure on the prices that Cox charges its customers for cable service. If FCC regulations were to require Cox to raise advertising rates, and thereby lose business and revenues, Cox would be forced to use other sources of financing, for example, its system upgrades – such as passing through some portion of its upgrade costs in regulated rate increases.

In short, Cox believes that the best thing that the Commission can do in the current environment is stay its hand and resist calls for further regulation of cable prices.

There is absolutely no evidence in Cox's case that competitive forces, together with existing regulations, are failing to keep Cox's regulated cable rates at reasonable levels. Moreover, Cox has invested billions of dollars to deploy the very broadband infrastructure and panoply of competitive services that regulators have uniformly embraced as serving the public interest. Its enormous investment, and concomitant risks, have been undertaken in partnership with Cox's stockholders and the financial markets – not with its regulated video customers. A movement towards reregulation of Cox's cable rates at this point in time would not be tolerated by the financial community and would have deleterious effects on Cox's ability to offer competitive video, voice and data services. Cox accordingly urges the Commission to reject proposals to revisit regulation of its cable programming service rates.

Respectfully submitted,

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